IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

WP(C).No. 17958 of 2003(K)

PETITIONER:

M.S. MOOSA S/O. SULAIMAN, AGED 60
YEARS, MOOKKADA HOUSE, MUDICKAL P.O., PERUMBAVOOR

BY ADV. SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU

RESPONDENTS:
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1. KERALA STATE ELECTRICITY BOARD,
TRIVANDRUM, REPRESENTED BY ITS SECRETARY.

2. ASSISTANT EXECUTIVE ENGINEER,
K.S.E.BOARD, PERUMBAVOOR.

3. DEPUTY CHIEF ENGINEER,
K.S.E.BOARD, PERUMBAVOOR.

BY ADV. SRI.C.K. KARUNAKARAN SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: A PHOTOSTAT COPY OF THE COMPLAINT DATED 23.12.2002 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.

EXT.P2: A PHOTOSTAT COPY OF THE ELECTRICITY BILL DATED 21.12.2002 DEMANDING RS. 70,308/- UNDER CONSUMER NO. 111.

EXT.P3: A PHOTOSTAT COPY OF THE COVERING LETTER DATED 24.12.2002 ISSUED BY THE ASSISTANT ENGINEER, ELECTRICAL SECTION, VAZHAKKULAM.

EXT.P4: A PHOTOSTAT COPY OF THE DISCONNECTION NOTICE DATED 21.12.2002 UNDER CONSUMER NO. 111.

EXT.P5: A PHOTOSTAT COPY OF THE DISMANTLING NOTICE DATED 21.12.2002 UNDER CONSUMER NO. 111

EXT.P6: A PHOTOSTAT COPY OF DISMANTLING NOTICE DATED 21.12.2002 UNDER CONSUMER NO 12263.

EXT. P7: A PHOTOSTAT COPY OF THE MAHAZAR DATED 20.12.2002.

EXT.P8: A PHOTOSTAT COPY OF THE JUDGMENT OF THIS HOB'BLE COURT IN O.P. NO. 39573/2002 DATED 21.01.2002

EXT.P9: A PHOTOCOPY OF THE REPRESENTATION DATED 12.03.2003 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.

EXT.P10: A PHOTOSTAT COPY OF THE ORDER DATED 30.05.2003 ISSUED BY THE 3RD RESPONDENT.

ORDER ON I.A. NO. 3658/2003 IN W.P.(C) NO. 17958/2003

DISMISSED

21.06.2007 SD/- KURIAN JOSEPH, JUDGE.

/True Copy/

P.A to Judge.

KURIAN JOSEPH , J

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W.P.(C) NO. 17958 OF 2003

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Dated this the 21st day of June, 2007

JUDGMENT

The petitioner is aggrieved by the penalty proceedings initiated against him on the ground of alleged unauthorised extension. The penalty is imposed adopting LT VIII tariffs for the purpose of penalty. In the judgment in O.P. No. 3054/2001, this Court has already held that in situation of unauthorised extension, the penalty that is to be levied is not under LT VIII tariff. Since the energy consumed through the extension has already been measured in the meter at the main premises and charges have been levied also, the only course open to the Board under Regulation 42(d) is to levy the penalty in respect of the fixed charges or disconnect the supply. Without prejudice to such liberty, the impugned orders are quashed.

The writ petition is disposed of accordingly.

KURIAN JOSEPH, JUDGE.

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